

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

IN RE:

Robert L. DuBose, Jr.
Gladys Saturday DuBose

Case No. 18-11747
Chapter 13
Hon. Jeffery P. Hopkins

Debtor(s)

**DEBTORS ROBERT L. DUBOSE, JR. AND GLADYS SATURDAY DUBOSE MOTION
FOR CONTEMPT AGAINST CREDITOR U.S. BANK TRUST N.A. AS TRUSTEE FOR
THE RMAC TRUST, SERIES 2018G-CTT**

Debtors Robert L. Dubose, Jr. and Gladys Saturday DuBose (“Dubose” or “Debtors”) and for their Motion for Contempt against Creditor U.S. Bank Trust, N.A. as Trustee for the RMAC Trust, Series 2018G-CTT as Trustee for the RMAC Trust, Series 2018G-CTT (“Creditor” or “U.S. Bank”) states the following:

INTRODUCTION

1. This is an action for actual damages, statutory damages, punitive damages, and legal fees and expenses filed by Debtors Robert L. DuBose and Gladys Saturday DuBose against Creditor U.S. Bank Trust, N.A. as Trustee for the RMAC Trust, Series 2018G-CTT for its improper actions and conduct which are not in compliance with and are in fact in violation of the Automatic Stay Provisions (11 U.S.C. 362).

JURISDICTION AND VENUE

2. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §1334 in that this proceeding arises in and is related to the above-captioned Chapter 13 case under Title 11 and concerns property of the Debtors in that case.

PARTIES

3. Debtors Robert L. DuBose, Jr. and Gladys Saturday DuBose are the Debtors in

this underlying Chapter 13 Petition and are each a natural person residing in the City of Cincinnati, County of Hamilton, State of Ohio. The Debtors have resided at this location for all relevant times.

4. Debtors are each a “consumer” and “Debtors” as those terms are defined under the applicable Federal and State Statutes.

**FACTUAL ALLEGATIONS
(Procedural History of Case)**

5. The Debtors filed their petition for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code on May 7, 2018. Debtors listed their ownership interest in the property located at 549 Bessinger Drive, Cincinnati, OH 45240. *See Doc. No. 1*. On Schedule D, Line 2.2 the Debtors specifically listed the Secured Claim held by Wells Fargo in the amount of \$101,590.00. *See Doc. No. 1* at p. 18.

6. On April 28, 2021 a Notice of Transfer Proof of Claim was filed transferring the claim to U.S. Bank Trust, N.A. as Trustee for the RMAC Trust, Series 2018G-CTT % Rushmore Loan Management Services.

7. On September 15, 2021 Debtors filed a Motion to Retain Insurance Proceeds. *See Doc. No. 36*

8. On October 18, 2021 the Motion to Retain was granted. *See Doc. 37*.

9. Between October 21, 2021 and November 3, 2021 the Debtors had multiple telephonic conversations with customer service representatives with Rushmore notifying them of the Motion, the Order, and demanding the insurance proceeds be disbursed to finish the necessary repairs.

10. On November 3, 2021 Debtor Robert DuBose sent a copy of the order to

Rushmore via facsimile at a number provided to him by Rushmore. The fax was confirmed as received by Rushmore on a subsequent call on November 3, 2021.

11. On November 5, 2021 Debtor's counsel faxed to Creditor's agent, Michelle Ghidotti, Esq., a copy of the Motion to Retain along with the Order.

12. On November 5, 2021 Debtor's counsel left a message for Michelle Ghidotti's staff with no response.

13. Despite all of the actions described in Paragraphs 9 through 12 above along with at least one, if not multiple, calls from Debtors' contractors to Rusbnmore, the Debtors have not received any check from Rushmore Loan Management Services for the insurance proceeds.

14. The failure of Rushmore to pay the insurance proceeds to the Debtors has placed the Debtors at imminent risk of immediate harm to their health and economically as since the Order has been granted, the temperatures have begun to dip below freezing as Debtors have had to incur expenses related to alternative heating sources and have a grave concern that their pipes may freeze should these issues persist into December and throughout the winter. In addition to these economic damages, Debtors have both suffered non-economic damages proximately caused by the actions and inactions of Rushmore related to the stress, anxiety, worry, embarrassment, and frustration of not having these funds to perform these necessary repairs.

WHEREFORE, Debtors Robert L. DuBose, Jr. and Gladys Saturday DuBose having set forth their claims for relief against the Creditor Rushmore Loan Management Services respectfully requests of this Court as follows:

A) For an Order Requiring Rushmore Loan Management Services to Turnover the insurance proceeds to Debtors' Counsel within seven (7) days of an Order Granting Debtor's Relief

pursuant to 11 U.S.C. 105;

- B) For an award for actual damages in an amount to be determined for the allegations contained in Count One pursuant to 11 U.S.C. 105 and/or 11 U.S.C. 362(k);
- C) For an award of punitive damages in any amount, this Court deems proper for the Debtor pursuant to 11 U.S.C. § 105 and/or 11 U.S.C. 362(k) for the violations of the automatic stay contained in Count One;
- D) For an award of Litigation Counsel and Debtor Counsel's reasonable attorney fees pursuant to this Court's authority under 11 U.S.C. § 105 for the violations contained in Count One; and
- E) That the Debtors have such other and further relief as the Court may deem just and proper.

Date: November 15, 2021

Respectfully Submitted,

/s/Brian D. Flick

Brian D. Flick 0081605

DannLaw

15000 Madison Avenue

Lakewood, OH 44107

216/373-0539

216/373-0536 - fax

notices@dannlaw.com

Litigation Counsel for Debtor

NOTICE

Your counsel has filed papers with the Court a Motion in Contempt.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy. If you do not have one, you may wish to consult one.

If you do not want the court to grant the Motion in Contempt or if you want the court to consider your views on the Motion, then within twenty-one (21) days from the date of service as set forth in the certificate of service below you or your attorney must file with the court a written request for a hearing {or, if the court requires a written response, an answer, explaining your position} at:

Clerk of the US Bankruptcy Court
Atrium Two, Suite 800
221 East Fourth Street
Cincinnati, Ohio 45202

You must also mail a copy to:

Brian D. Flick, Esq.
DannLaw, 15000 Madison Avenue
Lakewood, OH 44107

Margaret Burks, Chapter 13 Trustee
600 Vine Street
Suite 2200
Cincinnati, OH 45202

Office of the US Trustee
J.W. Peck Federal Building
550 Main Street
Room 4-812
Cincinnati, Ohio 45202

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: November 15, 2021

/s/ Brian D. Flick, Esq.
Brian D. Flick, Esq. (0081605)
DannLaw
15000 Madison Avenue
Lakewood, OH 44107
(513) 645-3488
(216) 373-0539 e-fax
notices@dannlaw.com
Attorney for Debtor(s)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion in Contempt was served **electronically** on the date of filing through the court's ECF System on all ECF participants registered in this case at the email address registered with the court and

by **first class mail** on November 15, 2021 addressed to:

Robert L. DuBose, Jr.
Gladys DuBose
549 Bessinger Drive
Cincinnati, OH 45240

All creditors on the attached matrix

/s/ Brian D. Flick, Esq.
Brian D. Flick, Esq. (0081605)
DannLaw
Attorney for Debtor(s)

Label Matrix for local noticing

Asst US Trustee (Cin)

BioWorks

0648-1

Office of the US Trustee

PO Box 641089

Case 1:18-bk-11747

J.W. Peck Federal Building

Cincinnati, OH 45264-1089

Southern District of Ohio

550 Main Street, Suite 4-812

Cincinnati

Cincinnati, OH 45202-5212

Thu Jul 2 18:47:15 EDT 2020

Margaret A Burks

CITY OF FOREST PARK

(p)CHOICE RECOVERY INC

600 Vine Street

c/o Weltman, Weinberg & Reis, Co.,L.P.A.

1550 OLD HENDERSON ROAD

Suite 2200

323 W. Lakeside Avenue, Ste 200

STE 100

Cincinnati, OH 45202-2491

Cleveland, OH 44113-1009

COLUMBUS OH 43220-3662

Cincinnati Bell

City of Forest Park

Dr. Leonards/Carol Wright

P.O. Box 748003

1201 W. Kemper Road

1515 S. 21st St.

Cincinnati, OH 45274-8003

Cincinnati, OH 45240-1697

Clinton, IA 52732-6676

Gladys Saturday DuBose

Robert L DuBose Jr.

Duke Energy

549 Bessinger Dr.

549 Bessinger Dr.

Bankruptcy Dept.

Cincinnati, OH 45240-3956

Cincinnati, OH 45240-3956

PO Box 1006-EC03T

Charlotte, NC 28201

Good Samaritan Hospital

Adam Bradley Hall

Key Bridge Medical Revenue Care

P.O. Box 740740

Manley Deas Kochalski

2343 Baton Rouge

Cincinnati, OH 45274-0740

P.O. Box 165028

PO Box 1568

Columbus, OH 43216-5028

Lima, OH 45802-1568

Laboratory Corporation of America

Massey's

Mercy Health

PO Box 2240

c/o Creditors Bankruptcy Service

PO Box 1123

Burlington, NC 27216-2240

P.O. Box 800849

Minneapolis, MN 55440-1123

Dallas, TX 75380-0849

Mercy Health Partners

Mercy Health Physicians

Mercy Hospital Fairfield

PO Box 630804

PO Box 630827

PO Box 630804

Cincinnati, OH 45263-0804

Cincinnati, OH 45263-0827

Cincinnati, OH 45263-0804

Monroe & Main

Monroe and Main

Montgomery Ward

c/o Creditors Bankruptcy Service

1112 7th Ave.

1112 7th Ave.

P.O. Box 800849

Monroe, WI 53566-1364

Monroe, WI 53566-1364

Dallas, TX 75380-0849

Montgomery Ward

Ohio GI and Liver Institute

PRA Receivables Management, LLC

c/o Creditors Bankruptcy Service

PO Box 631217

PO Box 41021

P.O. Box 800849

Cincinnati, OH 45263-1217

Norfolk, VA 23541-1021

Dallas, TX 75380-0849

Quantum3 Group LLC as agent for

Receivables Management LLC

Receivables Performance Management LLC

CF Medical LLC

1809 N .Broadway Rd.

20816 44th Avenue W.

PO Box 788

Greensburg, IN 47240-8217

Lynnwood, WA 98036-7744

Kirkland, WA 98083-0788

Robert Samaan, MD
3050 Mack Rd.
Suite 305
Fairfield, OH 45014-5376

SENEX SERVICES CORP
3333 FOUNDERS RD, 2ND FLOOR
INDIANAPOLIS, IN 46268-4932

SYNCB/Care Credit
PO Box 965036
Orlando, FL 32896-5036

Senex Services
3333 Founders Road
Suite 200
New Augusta, IN 46268-4932

Senex Services Corp.
3077 E 98th St., Ste 250
Indianapolis, IN 46280-2909

Spectrum Time Warner
PO Box 1060
Carol Stream, IL 60132-1060

Swiss Colony
1112 7th Avenue
Monroe, WI 53566-1364

Synchrony Bank
c/o PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

The Swiss Colony
c/o Creditors Bankruptcy Service
P.O. Box 800849
Dallas, TX 75380-0849

Tri-State Centers for Sight
PO Box 631662
Cincinnati, OH 45263-1662

TruPartner Credit Union
1717 Westen Ave.
Cincinnati, OH 45214-2007

Wells Fargo
PO Box 10335
Des Moines, IA 50306-0335

Wells Fargo Bank, N.A.
Default Document Processing
MAC# N9286-01Y
1000 Blue Gentian Road
Eagan MN 55121-7700

Wells Fargo Bank, NA
c/o Manley Deas Kochalski LLC
P.O. Box 165028
Columbus, OH 43216-5028

Nicholas A Zingarelli
DannLaw
2181 Victory Parkway
Suite 101
Cincinnati, OH 45206-2907

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Choice Recovery
1550 Old Henderson Rd., Ste. S100
Columbus, OH 43220

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Senex Services Corp.

(u)Wells Fargo Bank, N.A.

End of Label Matrix
Mailable recipients 44
Bypassed recipients 2
Total 46